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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/358, 280 07/21/99 UTTER

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024201 QM02/0606  
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EXAMINER

KTM, C

ART UNIT

PAPER NUMBER

3752

*20*

DATE MAILED:

06/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.  
09/358,280

Applicant(s)

Utter

Examiner

Christopher S. Kim

Art Unit

3752



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 15 May 2001

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 5, 7-12, and 15-17 is/are pending in the applica

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 5, 7-12, and 15-17 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirem

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 21 Jul 1999 is/are objected to by the Examiner.

11)  The proposed drawing correction filed on 23 Oct 2000 is: a) approved b)disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some\* c) None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on May 15, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/358,280 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Response to Amendment***

2. Amendment file March 19, 2001 has been entered.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for pressurizing the container removably mounted to said inlet of said container" recited in claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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***Claim Rejections - 35 USC § 103***

5. Claims 5, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cushing (4,911,339) in view of Rosenberg (4,960,419).

With respect to claims 5 and 8, Cushing discloses an apparatus comprising: a pressurizable container 16; a first water conduit 72; means 40 for pressurizing the container; a second water conduit 18, 51; a spray nozzle 20; a clip 24; a restrictive valve 46; and a means for sealing 70. The valve of Cushing inherently has an open position and a closed position. Cushing differs from what is being claimed in the alligator clip. The clip of Cushing is a C-shaped clip. Rosenberg discloses, in column 6, lines 3-6, a conventional alligator clip 235 for securing a tube to a convenient point. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the clip of Cushing with the alligator clip of Rosenberg for attachment to convenient places.

With respect to claim 10, Cushing in view of Rosenberg discloses the limitations of the claimed invention with the exception of ice. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have added ice to the container of Cushing in view of Rosenberg to dispense cold water.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cushing (4,911,339) in view of Rosenberg (4,960,419) as applied to claim 5 above, and further in view of Shurnick et al. (4,852,781).

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Cushing in view of Rosenberg differs from what is claimed in the means secured to the misting apparatus for attaching the misting apparatus to a person's waist. Shurnick et al. discloses a means 27 for securing a bottle to a part of a person's body (waist shown in figure 1). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced cage 30 of Cushing with the means 27 of Shurnick et al. to attach the device of Cushing to a runner.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cushing (4,911,339) in view of Rosenberg (4,960,419) as applied to claim 5 above, and further in view of Norman (842,689).

Cushing in view of Rosenberg discloses the limitations of the claimed invention with the exception of the manual piston type pump. Norman discloses a piston pump 7, 11, 12, 13, 17. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the bellows pump of Cushing with the piston pump of Norman to provide faster compression.

8. Claims 11, 12 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cushing (4,911,339) in view of Rosenberg (4,960,419), Shurnick et al. (4,852,781) and Roueche et al. (5,186,391).

With respect to claims 11, 12, 15 and 16,

Cushing discloses an apparatus comprising: a pressurizable container 16; a first water conduit 72; means 40 for pressurizing the container; a second water conduit 18, 51; a spray

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nozzle 20; a clip 24; a restrictive valve 46; and a means for sealing 70. The valve of Cushing inherently has an open position and a closed position. Cushing differs from what is being claimed in: the means for pressurizing the container mounted to the inlet; the means for securing the container to the person; and the alligator clip.

Roueche et al. discloses, in figure 13, a piston pump mounted to an inlet cap 118. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the bellows pump of Cushing with the piston pump of Roueche et al. to provide faster compression.

Shurnick et al. discloses a means 27 for securing a bottle to a part of a person's body (shown as a belt 27 around runner's waist 31 in figure 1). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced cage 30 of Cushing with the means 27 of Shurnick et al. to attach the device of Cushing to a runner.

Rosenberg discloses, in column 6, lines 3-6, a conventional alligator clip 235 for securing a tube to a convenient point. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the clip of Cushing with the alligator clip of Rosenberg for attachment to convenient places.

With respect to claim 17,

Cushing in view of Rosenberg, Shurnick et al. and Roueche et al. discloses the limitations of the claimed invention with the exception of ice. It would have been obvious to a person having

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ordinary skill in the art at the time of the invention to have added ice to the container of Cushing in view of Rosenberg, Shurnick et al. and Roueche et al. to dispense cold water.

*Response to Arguments*

9. Applicant's arguments with respect to claims 5, 7-12 and 15-17 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for this Group is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

CK

June 3, 2001



David A. Scherbel  
Supervisory Patent Examiner  
Group 3700